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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
8 AT SEATTLE

9 MICHAEL MUTHEE MUNYWE,

10 Petitioner,

11 v.

12 ROB JACKSON,

13 Respondent.

CASE NO. 3:23-cv-05965-TSZ-BAT

**ORDER DIRECTING RESPONSE
TO § 2254 PETITION**

Petitioner filed a *pro se* 28 U.S.C. § 2254 petition seeking relief from his 2020 conviction and sentence for Rape in the Second Degree and Unlawful Imprisonment with Sexual Motivation in Pierce County Case No. 18-1-04633-7. Because Petitioner also averred he has filed two personal restraint petitions (PRP) and that both “have not yet been decided and are still pending in superior court and court of appeals,” the Court ordered Respondent to file a response as to whether the §2254 habeas petition should be stayed and abeying, in light of Petitioner’s representation that state court review of his convictions are not yet complete.

Respondent responded it did not oppose a stay of the case to permit Petitioner to exhaust pending grounds of relief. Petitioner, however, took the position that the two grounds of relief he raises in his habeas petition are exhausted and that he opposes staying his case. The Court requested Petitioner to advise the Court whether he wishes to go forward on the two grounds for

1 relief presently pleaded knowing that he might be barred from raising the other grounds for relief
2 that are currently pending in the state courts if he filed a second or successive habeas petition as
3 to those grounds.

4 In response, on January 8, 2024, Petitioner filed a “notice” advising the Court he wishes
5 to go forward with the two grounds for relief that are pleaded in his habeas petition. Dkt. 13.

6 Based upon the foregoing, the Court **ORDERS**:

7 (1) Respondent shall file a response to the habeas petition and the relevant state court
8 record by **February 26, 2024, and shall note the matter for the court's consideration for**
9 **March 22, 2024.**

10 (2) Any response Petitioner wishes to file is due no later than **March 18, 2024**. Any
11 reply Respondent wishes to file is due no later than **March 22, 2024**.

12 (3) Any request for court action must be made in a written motion that is properly
13 filed, served, and noted in accordance with Local Rule CR 7. All arguments supporting a motion
14 must be in the motion itself and not in a separate document. The caption of the motion must
15 designate the date the motion is to be noted for the court's consideration.

16 (2) The parties may not communicate directly with the District Judge or Magistrate
17 Judge regarding this case. All relevant inquiries, information and papers must be directed to the
18 Clerk.

19 (3) The Clerk is directed to provide a copy of this Order to the parties.

20 DATED this 9th day of January, 2024.

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23 BRIAN A. TSUCHIDA
United States Magistrate Judge